REMARKS

Claims 32 to 68 are pending this application, of which claims 32, 48, 60, 63 and 66 are the independent claims. Claims 58 to 68 are new claims. Favorable reconsideration and further examination are respectfully requested.

Initially, Applicant acknowledges the Examiner's indication that claims 48 to 50 would be allowable if rewritten to include the features recited in the base claim and any intervening dependent claims. Accordingly, Applicant has amended claim 48 to be in independent form.

Specification Rejection

Claim 40 was rejected under 35 U.S.C. § 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner alleges that the term "each semiconductor light source" is not clear. Accordingly, Applicant has amended claim 1 to include a plurality of semiconductor light sources thereby making the usage of the term "each" in claim 40 appropriate. Applicant requests withdrawal of this rejection.

Prior Art Rejection

Claims 32 to 37, 43 to 44, 46 to 47 and 51 to 52 were rejected under 35 U.S.C. § 103(a) as being obvious over Fontenot et al. (U.S. Patent No. 6,516,216) in view of Lys et al (U.S. Patent No. 6,528,954). Neither Fontenot nor Lys taken separately or in combination disclose or suggest "each semiconductor light source having an encasement that includes an aperture ... wherein each aperture receives an associated portion of the distal end of the optical element and each associated portion is positioned to receive the light from the corresponding light emitting surface" as recited in amended claim 32. Fontenot describes an illuminator having infrared diodes and an emitting fiber but he does not describe diodes having encasements or that each encasement has an aperture much less that each aperture receives an associated portion of the distal end of the emitting fiber (column 5, line 33 to column 6, line 10 of Fontenot).

Furthermore, Lys does not describe LEDs having encasements that includes an aperture much less that each aperture receives an associated portion of the distal end of an optical element. Indeed, Lys does not describe an optical element at all. Rather, Lys describes an LED system and an endoscope in general terms, but he does not describe, in detail, what the LED system includes or the configuration to transmit light from the LED system to the endoscope (see column 65, line 50 to column 66, line 4 of Lys).

Even if Fontenot and Lys were combined, none of the features of the hypothetical combination disclose or suggest that each semiconductor light source includes an encasement with an aperture much less that each aperture receives an associated portion of the distal end of the optical element and each associated portion is positioned to receive the light from the corresponding light emitting surface.

In view of the foregoing amendments and remarks, the entire application is believed to be in condition for allowance and such action is respectfully requested at the Examiner's earliest convenience. For at least the foregoing reasons, Applicant requests withdrawal of this rejection.

Applicant's attorney can be reached by telephone at the number shown below. All correspondence should continue to be sent to:

Smith & Nephew, Inc.
Chief Patent Counsel
1450 Brooks Road
Memphis, TN 38116

Enclosed is a $410 check for the Petition for the Two-Month Extension of Time fee and a $84 check for excess claims. No other fees are believed to be due for this Response; however, if any fees are due, please apply such fees to Deposit Account No. 06-1050 referencing Attorney Docket 00167-376001.

Respectfully submitted,

Date: August 28, 2003

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